

HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting)

Chapter VIII, Rule 32(2) (b)

Description of the case

W. P. No. 2271/01(S/S)

Satish Kumar Sharma and others

Vs.

State of U.P. and others

Approved for reporting.

~~Not approved for reporting~~

Date of decision 01.08.2005

Initial of Judge

IN THE HIGH COURT OF UTTARANCHAL AT
NAINIAL
WRIT PETITION NO. 2271(S/S) OF 2001
(Old No. 1965 of 1998)

Satish Kumar Sharma, S/o Sri Bishambhar Dutta Sharma, R/o
114 Sot Patharowati Gali, Roorkee, District Haridwar.
.....Petitioner.

Versus

1. State of U.P., through, Pramukh Sachiv Education, Uttar Pradesh, Lucknow.
2. Director of Education (Madhyamik Shiksha) Uttar Pradesh Shivir Officer 18 Park Road, Lucknow.
3. Special Executive Officer, Library Cell, Uttar Pradesh Shashan Lucknow.
4. Dy. Inspector of School, District Haridwar.
5. Committee of Management B.S.M. Inter College, Roorkee, District Haridwar.

.....Respondents.

Hon'ble Rajesh Tandon, J.

Heard Sri V.K. Bisht, Sr. Advocate assisted by Ms. Seema Sirohi, learned counsel for the petitioner, learned Standing Counsel for State of Uttaranchal and learned Standing Counsel for the State of Uttar Pradesh.

By the present writ petition, the petitioner has prayed for a writ of mandamus directing the respondents to give the pay-scale of librarian to the petitioner, which was revised form time to time since the date of his appointment. Further prayer has been made for a writ of mandamus directing the respondents to

decide the representation of the petitioner dated 18th October, 1997 (Annexure 14).

Briefly stated, the petitioner was appointed and working as a Librarian-cum-clerk in the B.S.M. Inter College, Roorkee, District Haridwar since 01.11.1970. After the appointment, he was working in the pay-scale of 950-1500 on the post of Librarian-cum Clerk.

The petitioner has made a grievance for the pay-scale of Librarian of Rs. 1350-2200 in place of 950-1500 at par all the Government Inter College's Librarians, which they are getting. College of the petitioner is a non government recognized Organization and under grant-in-aid from the Government and is governed by the provisions of U.P. Intermediate Education Act.

The contention of the petitioner is that he is performing the work, duties and responsibilities of Librarian in the B.S.M. Inter College, Roorkee but he is not getting he pay-scale of Librarian, In Paragraph 9 of the writ petition, it has been sated that from 1st January, 1986, the Librarian working in the Government Inter Colleges are getting the pay-scale of 1350-2200, but the Librarians working in the Government recognized and aided Inter Colleges, which are also imparting the same education, are not being given the same pay scale and post also.

Learned counsel for the petitioner has referred the judgments of the Apex Court in ***Randhir Singh Vs. Union of India (1982) 1 SCC 618***, ***State of H.P. Vs. H.P. State Recognized and Aided Schools Managing Committees and others (1995) 4 SCC 507***, ***State of Haryana and another Vs. Ram Chander and another (1997) 5 SCC 235*** regarding the proposition that there should be "equal pay for equal work." However, at present the petitioner has

confined his prayer of his representation dated 18th October, 1998, where he has narrated his grievances that he is entitled for pay-shale of 1350-2200 and his representation has not yet been decided. Counter affidavit has been filed by he Manager as well as by the State Government respondent no. 4 and 5 respectively. In paragraph 5 of the counter affidavit, it has been stated that the petitioner was appointed as a Librarian-cum-Clerk and in paragraph 8 of he counter affidavit, it has been stated that the petitioner was appointed as a Librarian-cum-Clerk and not as a Librarian simpliciter.

The sole question, which has to be decided by taking into consideration as to whether the appointed of the petitioner was exclusive for Librarian so as to entitle him for getting the same pay, which the other Librarians of Government Inter College are getting.

Petitioner has filed documents showing that till the date of his retirement, he was working as Librarian-cum-Clerk and therefore, he is entitled for the same pay-scale as the other Librarians of Government Inter Colleges are getting.

Since the earlier representation dated 18.10.1997 has been made before the bifurcation of the State U.P., petitioner is permitted to file fresh representation along with the old representation dated 18.10.1997 before the State of Uttaranchal through Secretary Education and Director Education, Uttaranchal, Dehradun, who have been impleaded as respondents no. 6 and 7 respectively within a periods of six weeks. Upon filing the representation, the same shall be disposed of by the Authority concerned within a period of six weeks thereafter.

Suffice, it to state that the respondent shall consider the same in accordance with law after taking into consideration the

relevant Government Orders, which are applicable to the Librarian as well as the service conditions of the petitioner. The respondents are directed to decide the representation of the petitioner within a period of six weeks.

Accordingly, the writ petition is allowed.

(Rajesh Tandon, J.)

01.08.2005

Rathour